
By: **Senator Hogan**

Introduced and read first time: January 28, 2004

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Technology Investment Program**

3 FOR the purpose of creating the Maryland Technology Investment Program;
4 requiring the Board of Trustees of the State Retirement and Pension System, in
5 consultation with the Maryland Technology Development Corporation, to
6 establish and administer the Program; authorizing the Board of Trustees to
7 adopt certain regulations; requiring the Board of Trustees to enter into certain
8 partnership agreements with certain general partners; requiring that certain
9 general partners that contract with the Board of Trustees seek certain
10 investments, negotiate the terms of certain investments, and monitor the
11 progress of certain investments; requiring the Board of Trustees to ensure that
12 a decision to enter into a certain partnership is based solely on the potential for
13 investment returns; requiring the Board of Trustees to ensure that the amount
14 of certain funds invested in the Program is equal to or less than the investment
15 made by other institutional investors and that certain general partners make a
16 substantial investment; requiring the Board of Trustees to invest a certain
17 amount in the Program in certain fiscal years; requiring the Governor to include
18 a certain appropriation in the annual budget bill in certain fiscal years under
19 certain circumstances; requiring the Board of Trustees to submit a certain
20 annual report by a certain date; defining certain terms; and generally relating to
21 the creation and administration of the Maryland Technology Investment
22 Program.

23 BY adding to
24 Article - State Personnel and Pensions
25 Section 21-701 through 21-704 to be under the new subtitle "Subtitle 7.
26 Maryland Technology Investment Program"
27 Annotated Code of Maryland
28 (1997 Replacement Volume and 2003 Supplement)

29 Preamble

30 WHEREAS, Private equity investment, including venture capital investment,
31 can provide substantial, long-term returns to a diversified investment portfolio; and

1 WHEREAS, The asset allocation of the State Retirement and Pension System
2 designates an asset allocation range of up to 2% of System assets in private equity;
3 and

4 WHEREAS, The asset allocation target of the State Retirement and Pension
5 System for investment in private equity is 2%, but the State Retirement and Pension
6 System has only invested 0.3% of assets in private equity; and

7 WHEREAS, Investment of private equity in the State can provide benefits to
8 both the Maryland State Retirement and Pension System through positive
9 investment return and the entire State through an expansion of the technology and
10 bioscience business sector; now, therefore,

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - State Personnel and Pensions**

14 **SUBTITLE 7. MARYLAND TECHNOLOGY INVESTMENT PROGRAM.**

15 21-701.

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) "PROGRAM" MEANS THE MARYLAND TECHNOLOGY INVESTMENT
19 PROGRAM.

20 (C) "QUALIFIED TECHNOLOGY OR BIOSCIENCE BUSINESS" MEANS A
21 BUSINESS THAT:

22 (1) (I) 1. IS HEADQUARTERED IN THE STATE AND INTENDS TO
23 REMAIN IN THE STATE AFTER RECEIPT OF THE INVESTMENT, OR IS
24 HEADQUARTERED IN ANOTHER STATE AND INTENDS TO RELOCATE ITS
25 HEADQUARTERS TO THE STATE AFTER RECEIPT OF THE INVESTMENT; AND

26 2. HAS ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN
27 THE STATE AND INTENDS TO MAINTAIN BUSINESS OPERATIONS IN THE STATE
28 AFTER RECEIPT OF THE INVESTMENT, OR HAS ITS PRINCIPAL BUSINESS
29 OPERATIONS LOCATED IN ANOTHER STATE AND INTENDS TO RELOCATE BUSINESS
30 OPERATIONS TO THE STATE WITHIN 90 DAYS AFTER RECEIPT OF THE INVESTMENT;
31 OR

32 (II) IS A SUBSIDIARY IN THE STATE OF A COMPANY
33 HEADQUARTERED OUTSIDE THE UNITED STATES;

34 (2) HAS AGREED TO USE THE QUALIFIED INVESTMENT PRIMARILY TO:

35 (I) SUPPORT BUSINESS OPERATIONS IN THE STATE; OR

1 (II) IN THE CASE OF A START-UP COMPANY, ESTABLISH AND
2 SUPPORT BUSINESS OPERATIONS IN THE STATE;

3 (3) DOES NOT HAVE MORE THAN 100 EMPLOYEES AND:

4 (I) EMPLOYS AT LEAST 80% OF ITS EMPLOYEES IN THE STATE; OR

5 (II) PAYS 80% OF ITS PAYROLL TO EMPLOYEES IN THE STATE;

6 (4) IS PRIMARILY ENGAGED IN:

7 (I) MANUFACTURING, PROCESSING, OR ASSEMBLING
8 TECHNOLOGY OR BIOSCIENCE PRODUCTS;

9 (II) CONDUCTING TECHNOLOGICAL OR BIOSCIENCE RESEARCH
10 AND DEVELOPMENT; OR

11 (III) PROVIDING TECHNOLOGY OR BIOSCIENCE-RELATED
12 SERVICES; AND

13 (5) IS NOT PRIMARILY ENGAGED IN:

14 (I) RETAIL SALES;

15 (II) REAL ESTATE DEVELOPMENT;

16 (III) THE BUSINESS OF INSURANCE, BANKING, OR LENDING; OR

17 (IV) THE PROVISION OF PROFESSIONAL SERVICES PROVIDED BY
18 ACCOUNTANTS, ATTORNEYS, OR PHYSICIANS.

19 21-702.

20 (A) THERE IS A MARYLAND TECHNOLOGY INVESTMENT PROGRAM
21 ADMINISTERED BY THE BOARD OF TRUSTEES.

22 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FOR VENTURE CAPITAL
23 INVESTMENT BY THE SYSTEM IN QUALIFIED TECHNOLOGY OR BIOSCIENCE
24 BUSINESSES IN THE STATE.

25 (C) THE BOARD OF TRUSTEES, IN CONSULTATION WITH THE MARYLAND
26 TECHNOLOGY DEVELOPMENT CORPORATION, SHALL ESTABLISH AND ADMINISTER
27 THE PROGRAM AND MAY ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THIS
28 SUBTITLE.

29 (D) (1) IN ADMINISTERING THE PROGRAM, THE BOARD OF TRUSTEES SHALL
30 ENTER INTO PARTNERSHIP AGREEMENTS WITH ONE OR MORE VENTURE CAPITAL
31 GENERAL PARTNERS.

32 (2) EACH VENTURE CAPITAL GENERAL PARTNER THAT THE BOARD OF
33 TRUSTEES CONTRACTS WITH SHALL:

1 (I) SEEK INVESTMENTS IN QUALIFIED TECHNOLOGY AND
2 BIOSCIENCE BUSINESSES;

3 (II) NEGOTIATE THE TERMS OF INVESTMENT IN THE QUALIFIED
4 TECHNOLOGY AND BIOSCIENCE BUSINESSES; AND

5 (III) MONITOR THE PROGRESS OF THE INVESTMENT IN QUALIFIED
6 TECHNOLOGY AND BIOSCIENCE BUSINESSES.

7 (3) THE BOARD OF TRUSTEES SHALL ENSURE THAT:

8 (I) A DECISION TO ENTER INTO A PARTNERSHIP WITH A VENTURE
9 CAPITAL GENERAL PARTNER IS BASED SOLELY ON THE POTENTIAL FOR
10 INVESTMENT RETURNS;

11 (II) THE AMOUNT OF FUNDS INVESTED BY THE BOARD OF
12 TRUSTEES IN A PARTNERSHIP THROUGH THE PROGRAM IS EQUAL TO OR LESS THAN
13 THE INVESTMENT MADE BY OTHER INSTITUTIONAL INVESTORS IN THE
14 PARTNERSHIP; AND

15 (III) EACH VENTURE CAPITAL GENERAL PARTNER MAKES A
16 SUBSTANTIAL INVESTMENT IN THE PARTNERSHIP.

17 21-703.

18 (A) (1) ON OR BEFORE JULY 15 OF EACH FISCAL YEAR BEGINNING WITH
19 FISCAL YEAR 2005 AND ENDING AFTER FISCAL YEAR 2009, THE BOARD OF TRUSTEES
20 SHALL SET ASIDE \$20,000,000 FOR INVESTMENT IN THE PROGRAM.

21 (2) (I) IF THE BOARD OF TRUSTEES DETERMINES THAT THERE ARE
22 NOT AN ADEQUATE NUMBER OF QUALIFIED TECHNOLOGY AND BIOSCIENCE
23 BUSINESSES TO INVEST IN, THE BOARD OF TRUSTEES MAY INVEST ONLY A PORTION
24 OF THE \$20,000,000.

25 (II) IF ANY MONEY SET ASIDE FOR INVESTMENT IN THE PROGRAM
26 UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT INVESTED IN THE FISCAL YEAR
27 IN WHICH THE MONEY WAS SET ASIDE, THE MONEY MAY BE INVESTED IN THE
28 PROGRAM THE FOLLOWING FISCAL YEAR.

29 (B) ANY INVESTMENT RETURN FROM THE PROGRAM SHALL ACCRUE TO THE
30 STATE SYSTEM.

31 (C) (1) IN FISCAL YEAR 2012, IF THE INTERNAL RATE OF RETURN FROM THE
32 FISCAL YEAR 2005 INVESTMENT MADE BY THE BOARD OF TRUSTEES IN THE
33 PROGRAM DOES NOT MEET OR EXCEED A 7.75% ANNUALIZED RETURN, THE
34 GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO
35 THE STATE SYSTEM THAT REPRESENTS THE DIFFERENCE BETWEEN A 7.75%
36 ANNUALIZED RETURN AND THE ACTUAL RETURN OF THE FISCAL 2005 INVESTMENT
37 IN THE PROGRAM.

1 (2) IN FISCAL YEAR 2013, IF THE INTERNAL RATE OF RETURN FROM THE
2 FISCAL YEAR 2006 INVESTMENT MADE BY THE BOARD OF TRUSTEES IN THE
3 PROGRAM DOES NOT MEET OR EXCEED 7.75% ANNUALIZED RETURN, THE GOVERNOR
4 SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE STATE
5 SYSTEM THAT REPRESENTS THE DIFFERENCE BETWEEN A 7.75% ANNUALIZED
6 RETURN AND THE ACTUAL RETURN OF THE FISCAL 2006 INVESTMENT IN THE
7 PROGRAM.

8 (3) IN FISCAL YEAR 2014, IF THE INTERNAL RATE OF RETURN FROM THE
9 FISCAL YEAR 2007 INVESTMENT MADE BY THE BOARD OF TRUSTEES IN THE
10 PROGRAM DOES NOT MEET OR EXCEED A 7.75% ANNUALIZED RETURN, THE
11 GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO
12 THE STATE SYSTEM THAT REPRESENTS THE DIFFERENCE BETWEEN A 7.75%
13 ANNUALIZED RETURN AND THE ACTUAL RETURN OF THE FISCAL 2007 INVESTMENT
14 IN THE PROGRAM.

15 (4) IN FISCAL YEAR 2015, IF THE INTERNAL RATE OF RETURN FROM THE
16 FISCAL YEAR 2008 INVESTMENT MADE BY THE SYSTEM IN THE PROGRAM DOES NOT
17 MEET OR EXCEED A 7.75% ANNUALIZED RETURN, THE GOVERNOR SHALL INCLUDE IN
18 THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE STATE SYSTEM THAT
19 REPRESENTS THE DIFFERENCE BETWEEN A 7.75% ANNUALIZED RETURN AND THE
20 ACTUAL RETURN OF THE FISCAL 2008 INVESTMENT IN THE PROGRAM.

21 (5) IN FISCAL YEAR 2016, IF THE INTERNAL RATE OF RETURN FROM THE
22 FISCAL YEAR 2009 INVESTMENT MADE BY THE SYSTEM IN THE PROGRAM DOES NOT
23 MEET OR EXCEED A 7.75% ANNUALIZED RETURN, THE GOVERNOR SHALL INCLUDE IN
24 THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE STATE SYSTEM THAT
25 REPRESENTS THE DIFFERENCE BETWEEN A 7.75% ANNUALIZED RETURN AND THE
26 ACTUAL RETURN OF THE FISCAL 2009 INVESTMENT IN THE PROGRAM.

27 21-704.

28 (A) ON JULY 15 OF EACH YEAR, THE BOARD OF TRUSTEES, IN CONSULTATION
29 WITH THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION, SHALL SUBMIT
30 A REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH
31 § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE IMPLEMENTATION AND
32 ADMINISTRATION OF THE PROGRAM.

33 (B) FOR EACH FISCAL YEAR IN WHICH INVESTMENTS WERE MADE THROUGH
34 THE PROGRAM, THE REPORT MADE BY THE BOARD OF TRUSTEES UNDER THIS
35 SECTION SHALL INCLUDE:

36 (1) A LIST OF INVESTMENTS MADE THROUGH THE PROGRAM; AND

37 (2) THE AGGREGATE INVESTMENT RETURNS OF ALL INVESTMENTS
38 MADE THROUGH THE PROGRAM.

39 (C) THE REPORT MADE BY THE BOARD OF TRUSTEES SHALL INCLUDE AN
40 ANALYSIS OF THE ECONOMIC IMPACT ON THE STATE OF ALL INVESTMENTS MADE
41 THROUGH THE PROGRAM.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2004.